

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

RODRICK JOHNSON PATTERSON

PETITIONER

v.

CIVIL ACTION NO. 3:12-CV-815-CWR-FKB

WARDEN MATTHEW

RESPONDENT

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

This matter is before the Court on the Report and Recommendation of United States Magistrate Judge F. Keith Ball, Docket No. 16, concerning the Respondent's Motion to Dismiss, Docket No. 11, and the Petitioner's Motion to Continue Claim as Having Merit, Docket No. 12. On April 4, 2013, Judge Ball recommended that the Respondent's Motion to Dismiss be granted, that the Petitioner's Motion to Continue be denied, and that this matter be dismissed with prejudice. Pursuant to Federal Rule of Civil Procedure 72(b)(2), Judge Ball directed the parties to file any objections to the Report and Recommendation "within fourteen (14) days after being served with a copy." Docket No. 16, at 3-4.

The Petitioner did not seek the undersigned's review of the Magistrate Judge's Report and Recommendation, but on April 18, 2013, he filed a Motion for Reconsideration, Docket No. 19, which he specifically directed towards Judge Ball. *See* Docket No. 19, at 7 (referring to Judge Ball by name). On April 30, 2013, Judge Ball denied the motion, Docket No. 20. The Petitioner has not filed an objection to the Magistrate Judge's Order denying the Motion for Reconsideration.

While the Court's adoption of the Magistrate Judge's Report and Recommendation is appropriate based on the Petitioner's failure to timely file a Rule 72 objection to the Magistrate Judge's Order denying the Motion for Reconsideration, the Court has liberally construed the

Petitioner's Motion for Reconsideration as a timely objection to the Magistrate's Report and Recommendation. Having reviewed the Magistrate Judge's Report and Recommendation and the Petitioner's Motion for Reconsideration in accordance with Rule 72(b)(3), the Court finds the Report and Recommendation to be well-reasoned and legally correct and, therefore, overrules the Petitioner's objection. The Magistrate Judge's Report and Recommendation is adopted fully herein by reference. Accordingly, the Respondent's Motion to Dismiss is granted, and the Petitioner's Motion to Continue is denied. A Final Judgment will be entered in accordance with this Order.

SO ORDERED, this the 30th day of May, 2013.

s/ Carlton W. Reeves
UNITED STATES DISTRICT JUDGE